INFORMATIONAL HEARING

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

In the Matter of:	)	
	)	
Application for Certification	)	Docket No.
Pico Power Project	)	02-AFC-3
	)	

BILTMORE HOTEL

SARATOGA BALLROOM

2151 LAURELWOOD ROAD

SANTA CLARA, CALIFORNIA

MONDAY, DECEMBER 16, 2002

5:00 p.m.

Reported by:
Valorie Phillips
Contract No. 170-01-001

COMMITTEE MEMBERS PRESENT

John L. Geesman, Presiding Member

HEARING OFFICER, ADVISORS PRESENT

Gary Fay, Hearing Officer

STAFF AND CONSULTANTS PRESENT

Dick Ratliff, Staff Counsel

Matthew Trask, Project Manager

PUBLIC ADVISER

Roberta Mendonca

APPLICANT

Scott A. Galati, Attorney
Galati & Blek, LLP

Jennifer Sparacino, City Manager
City of Santa Clara

Jim Pope, Director
Silicon Valley Power
City of Santa Clara

Leslie J. Ward, General Manager
Pico Power Project
Silicon Valley Power
City of Santa Clara

Andrea E. Grenier, Principal
Argonaut Consulting
Environmental Project Manager
Pico Power Project

ALSO PRESENT

Cecilia K. Brown, Biologist
U.S. Fish and Wildlife Service

Clark Freitag

I N D E X

	Page
Proceedings	1
Introductions	1
Opening Remarks	1
Presiding Member Geesman	1
Hearing Officer Fay	3
Background and Overview	4
Hearing Officer Fay	4
Public Adviser Mendonca	10
Presentations	16
Applicant	16
CEC Staff	32
Issues Identification Report	47
Schedule	49
U.S. Fish and Wildlife Service	51
Public Comment	54
Clark Freitag	54
Scheduling	58
Closing Remarks	60
Adjournment	61
Reporter's Certificate	62

P R O C E E D I N G S

5:00 p.m.

PRESIDING MEMBER GEESMAN: Good evening. This is an informational hearing conducted by the Committee of the California Energy Commission assigned to the proposed Pico Power project.

I'm John Geesman, one of the five Commissioners of the California Energy Commission, and the Presiding Member of this Committee. Commissioner Art Rosenfeld is the Associate Member of the Committee, but he's unable to join us this evening.

I'd also like to introduce the Hearing Officer for this case, Gary Fay. And I will be turning over the proceedings to Mr. Fay after the introductions.

The applicant, Silicon Valley Power, filed an application with the Energy Commission to obtain a license for the proposed Pico Power project in the City of Santa Clara. The applicant requests an expedited review of the application under the Commission's new six-month review process.

The purpose of this hearing is to discuss the Commission's expedited licensing

process and to identify issues of concern related to the project development.

Before we begin, would the parties please introduce your representatives at this time. Mr. Galati.

MR. GALATI: My name is Scott Galati and I represent the Pico Power project. And to my left is Doug Davy with Foster Wheeler, the lead environmental consultant for AFC preparation. The overall environmental consultant and manager is Andrea Grenier with Argonaut Consulting. And the general manager of the Pico Power project is Les Ward. I don't know if Les wants to introduce some other people in the audience of not.

PRESIDING MEMBER GEESMAN: Staff.

MR. TRASK: I'm Matt Trask, the Project Manager with the Siting Division. And with me today is Dick Ratliff, Staff Counsel. And we have a few of our experts with us, Tony Mediati for water; and Kevin Kennedy, who's my boss, the Program Manager; and Linda Bond, who's groundwater; and Dorothy Torres, cultural resources.

PRESIDING MEMBER GEESMAN: Are there any intervenors in the proceeding present? How about

the Commission's Public Adviser, Roberta Mendonca.

MS. MENDONCA: I'm Roberta Mendonca, and I look forward to sharing a few remarks a little later in the program. Thank you.

PRESIDING MEMBER GEESMAN: How about any other governmental agencies that would like to be introduced at this time?

MS. BROWN: Cecilia Brown from Fish and Wildlife Service (inaudible).

PRESIDING MEMBER GEESMAN: Anyone not speaking into a microphone can't be picked up by our court reporter.

Mr. Fay.

HEARING OFFICER FAY: All right, thank you, Commissioner.

Good evening, everybody. I hope everybody had a chance to join us for the site visit and ride the wonderful electric buses.

Today's informational hearing is the first public event conducted by the Committee as part of the Energy Commission's licensing proceedings on the Pico Power Plant project. Notice of today's hearing was sent to all parties, adjoining landowners, interested governmental agencies and other individuals on November 26th.

In addition, notice of today's events was published several times in the local newspapers.

Documents pertinent to today's hearing that you can get on the table outside the hearing room, I believe, include the staff's issue identification report. I've also put copies of the notice out there, and copies of our agenda for this evening.

Staff filed its issues report on December 6th, and they'll be reviewing that later in the program.

The purpose of today's event is to provide the public a forum to discuss the proposed project and for the Energy Commission to describe our review process, and to identify opportunities for public participation in the process.

The Silicon Valley Power submitted its application on October 7th of this year and filed supplemental information on November 15th. The Energy Commission ruled that the application was adequate and complete for filing on November 20th.

The Commission's reviewing the project pursuant to the expedited six-month AFC process set forth in Public Resources Code 25550. And the projects that are eligible for this expedited

process have demonstrated at the initial review point that they are not likely to cause any significant adverse impacts on the environment or on the electrical system. And that they can comply with applicable laws, ordinances, regulations and standards.

The ultimate question on those matters has not been decided, but there has been a preliminary determination that the project is a likely candidate for success in those areas. So it's the kind of project where the Commission does not anticipate a lot of litigation on major issues in the case.

Today's events are the first in a series of formal hearings which will extend over approximately the next six months. The Commissioners conducting the proceeding will eventually issue a proposed decision containing their recommendations on the power plant proposal.

It's important to note that the Committee's recommendations must, by law, be based solely on the evidence contained in the public record.

To preserve the integrity of the licensing process, the Commission's regulations

expressly prohibit private contacts between the parties and the Committee members. This prohibition against private communications between parties and the Committee is known as the ex parte rule.

What that means is that all the contacts between the parties, members of the public, everybody on that side of our table, and the Committee, the two Commissioners or myself and their Advisors, must be conducted in public; either in a hearing like this on the record, or in writing filed with the Commission's docket. No private, behind-closed-doors arrangements are allowed.

The ex parte rule insures full disclosure to all participants of any information that may be used as a basis for the decision on this project. Additional opportunities for the parties and governmental agencies to discuss substantive issues with the public will occur in public workshops that will be held by the Commission Staff down here in Santa Clara. And one was held this afternoon preceding our site visit.

Information regarding other

communications between the parties and the agencies is contained in written reports or letters that summarize the communication, such as reports of phone conversations. These reports are distributed to the parties in the case and made available to the public.

Information regarding hearing dates and other events can be obtained on the Commission's internet website. And that address is www.energycommission.ca.gov/sitingcases/picopower. And you don't have to remember that because it's on page 3 of the notice for today's hearing. And I think the staff will be distributing pieces of paper that have that contained. I think it's probably on the issues report.

Any time you want to know where the project is, you can check out the webpage; see if there's any new developments.

While the Public Adviser and the Commission Staff will go into greater detail later, I'd like to briefly review our process.

First, the process is what's called the functionally equivalent to CEQA process. That means that the Secretary of Resources certified the Energy Commission's siting process as

functionally equivalent to the EIR process.

We will not do a separate EIR, but as I'll explain, you actually have much more opportunity for input. It means -- the process means two things. First, we must, by law, address the substantive requirements and policies of CEQA. And second, the Energy Commission provides a process that's much more comprehensive in its opportunity for public input and review than the normal CEQA one.

For example, public hearings are not required under CEQA; they're encouraged, not required. Our process does require them, and requires public access, right to participate in all the workshops and every stage of the process.

Public notice will go out regarding these various workshops, hearings so that the public will have an opportunity to come.

You'll definitely have ample chance to make your points of view known and to comment upon the proposed project. Additional rights accrue to those people, members of the public, agencies, whoever, that choose to formally intervene in the process, and thereby become a formal party, just like the Commission Staff and the applicant are

formal parties.

These rights, however, also mean that as Ms. Mendonca will explain, if you become a party or an intervenor in the case you do assume the burdens that go with that formal participation.

Second, perhaps some of you are here because you believe the project should be changed or eliminated. And I assure you that this matter will be explored fully over the next six months.

Please keep in mind, however, that the legal standard which applies is not that our focus is to be able to determine the best of all possible configurations or locations for the project. But, rather whether an alternative configuration or location would avoid or substantially lessen any significant environmental impacts.

Another way to put that is if there's not a determination that unmitigated significant impacts are likely to occur, then you don't necessarily look at alternatives.

Finally, you can expect that all decisions in this case, including whatever the Committee's final recommendations are, will be made solely on the basis of the public record.

And that gets us back to the ex parte rule, which insures that everything we deal with is part of the public record, and therefore prohibits private conversations.

Our Public Adviser is here to represent the assistance that the Energy Commission provides to the public, sort of a liaison to help you learn how to participate. And anybody who is interested in getting involved in the case, whether as a formal intervenor or merely as somebody that just wants to watch and maybe make a comment now and again, should touch base with Ms. Mendonca and avail yourself of her skills in explaining how that is best done.

And, now, if you'd like, Roberta, take a moment and summarize what your office does.

MS. MENDONCA: Thank you, Commissioner Geesman, Hearing Officer Gary Fay, applicant and staff. There's really two parts to my report this evening, and the first part will be to describe to you what the Public Adviser has done so far in this case to facilitate the public's participation in the process.

And then the second part will be to explain to the members of the public here the

various ways that they have, the opportunities that they have to participate.

We began in November, created a one-page project description which we have now translated into Spanish; and we sent 100 copies of the one-page project description to the Pico Chamber of Commerce.

We followed that up with three school contacts; to the Montague School, the Richer School and Scott Lane School. And 600 project descriptions in English and Spanish were sent to each of those schools, and sent home with the school children.

Finally, in preparation for tonight's meeting we prepared a simple summary of the hearing notice that went out that was in English and Spanish, and was sent to The San Jose Mercury News. And this would augment the formal notice that goes out from the Commission. And 8160 copies were sent to selected zip codes around three miles of the plant.

So, with that, I would now like to address the public and explain to them their opportunities for public participation.

It's kind of unusual to have somebody in

a state role, in a state office be assigned to assist members of the public in participating in our process. That's just exactly what my job is. And it's created by statute. And I am here to assist you in understanding the procedures that you're going to be seeing, beginning with tonight's formal meeting.

First of all, let me tell you that there is, in a local library, in the Santa Clara Central Library, a copy of the application for certification, which is the document that they have prepared explaining their process.

And the hours of that library -- it's open every day of the week -- on Mondays through Thursdays 9:00 a.m. to 9:00 p.m.; and Fridays and Saturdays 9:00 a.m. to 6:00 p.m.; and on Sundays from 1:00 to 5:00 p.m. And you can access the application for certification at that library.

If you would like to have one to look and inspect, please contact my office and we can arrange for you to have a loaner copy of the application for certification.

The Energy Commission meetings, they're not all the same. There are different types of meetings because the people that organize the

meeting have different roles.

When the Commissioners hold a meeting they're much more formal. And they are the decision-makers in this process. Their meetings are called Committee meetings or hearings.

When the staff, who's responsible for doing an independent analysis, have their meetings they're much more informal. And if you were able to be here earlier today they conducted a workshop. And those notices will all be called workshops. It's a free exchange, kind of roll-up-your-sleeves sit-down and participate freely in the discussion that takes place at a workshop.

And speaking about participation there's usually two types. Informal participation where you can show up and take a seat and offer a verbal opinion. You can send in written comments which get added to the administrative record.

Or some people want to do a little bit more formal participation which is done through the process of petitioning to intervene. And as Mr. Fay mentioned, if you do intervene you become a formal party.

The questions I often get about intervention is who can intervene. It's not a

restrictive status. If you have an impact from the power plant, or you live in the close area, you feel you'll be impacted by the power plant, it's a status open to members of the public.

And the best time to intervene is early in the process. There are deadlines and you must intervene before the first formal hearings.

The responsibilities of intervenors include those of the other parties, which you must be willing to serve your documents to everybody in the case, make the copies and do the proper filings. Adhere to the timelines, and also make yourself available for questions, should questions be asked of you.

But actually intervention is not a difficult process; it's usually accomplished with a one-page petition. And my office is more than willing to help you with that, if that turns out to be what you, as a member of the public, want to do.

The benefits of intervening really don't show up until you get to the more formal stages, which are our evidentiary, fact-finding stage. At that point intervenors can submit evidence and cross-examine the witnesses. Members of the

public are welcome and can comment and can participate at that level, but once we get to the formal decision-making phase, the formal cross-examination can only be done by parties.

So, once again, my office is the Office of the Public Adviser. And we are available at an 800 number. I'm also on the Energy Commission's email. And I wanted to encourage you this evening, if you have a comment you can fill out our public comment form; get that back to my office and we'll make sure that it gets docketed and to the appropriate people for answers.

They mentioned that we're in a six-month process. I have a timeline that you can take away with you that outlines the step in the six-month review process.

And also, there's going to be a lot of information coming your way this evening. I encourage you to walk away with the one-page handout that's a simple synopsis of the proposal.

Thank you very much.

HEARING OFFICER FAY: Thank you, Roberta.

Just so you know, the order that we will proceed, as set forth in the agenda, is the first

presentation will be by the applicant. Then the staff. And if the City of Santa Clara wishes to make remarks separate from the developer, they will. And then any other agencies that are here tonight. And then comments from members of the public.

We'll also be flexible in allowing any of the representatives or members of the public to ask questions as we go along, too. So we want folks to understand what the project's about, and what the Energy Commission's process is about. That's the whole idea of this evening's meeting.

So, please take advantage of this opportunity.

And now, I'd like to turn it over to the applicant.

MS. GRENIER: Good evening, thank you very much. My name is Andrea Grenier; I'm the Environmental Project Manager for this project.

We do have a presentation we're going to make tonight, and hard copies are available out on the front table as you walked in. We have a short presentation, but we'll have a couple different people participate in it. And I'll introduce those people to you now.

First of all, Jennifer Sparacino, the City Manager, is going to make a couple introductory remarks. She'll then turn it over to Jim Pope, who is the Director of the Silicon Valley Power, who will talk a little bit about the objectives of the project and why we're here.

And then finally he will turn it over to Les Ward, who is the General Manager of the Pico Power project.

So, with that, Jennifer.

MS. SPARACINO: Good evening. My name is Jennifer Sparacino, and I'm the City Manager for the City of Santa Clara. And I'd like to take this opportunity to welcome you to the City, and to tell you just a little bit about Silicon Valley Power.

Silicon Valley Power is the City's electric utility. It's one of our City Departments, and we're very proud of the work that it's done. It has a history going back to 1896, which isn't quite as old as the City which is currently celebrating our sesquicentennial anniversary this year of 150 years.

But the utility has been here during most of the City's history and has been an

integral part of our organization.

We have been committed to serving the energy needs of our Santa Clara residents, including our business, industry, and of course, our Santa Clara residents, since 1896.

And our goals have been, and continue to be, to have clean, reliable, competitively priced electricity. And we have very very high standards of customer service and customer service excellence.

We currently generate about 40 percent of the total energy needs of the City. And we hope, through this project, to increase that amount.

We continue, as our primary goal, to respond to the needs of the community. And we feel that this project will fulfill that need, or those needs.

Again, I'm happy to have you here in the City of Santa Clara; it's the first time we've had the California Energy Commission visit us. So it's a historic event for us from that viewpoint.

I'd like to now introduce our Director of the City's electric utility, Silicon Valley Power, Jim Pope.

Thank you.

PRESIDING MEMBER GEESMAN: Thank you.

MR. POPE: Thank you, Jennifer. I'd like to go over the next couple slides and go over the objectives and essentially the need for this power plant.

Providing reliable, competitive energy at stable rates is what our customers want. We're largely an industrial city. As you saw, a lot of the industrial complex in the City. Ninety percent of our revenue comes from our commercial and industrial customers in the City. So, providing reliable stable prices is what our customers want.

This power plant will replace an energy contract we have with the Western Area Power Administration, the federal entity, and the California Valley Project, CVP project. That contract changes in 2005, and we lose about 50 percent of our energy. And this power plant will replace that energy.

It will meet our existing and future load growth. Right now we'd like to have the load growth back. We've lost about 8 percent of our

growth in the last couple of years.

It will also help us stabilize our power price, and it will help add to our diversity. We are currently only about 3 percent natural gas. And when we have this power plant we will be 13 percent natural gas.

We're about 65 percent hydro; and the rest is geothermal and a little wind and a couple peaking power plants, of which you saw one today, the Gianera Power Plant.

We provide the location, operations and systems support for the existing power plants, as well as the distribution and internal transmission system within the City. And we will continue to look at that going forward.

Here's a graphical representation. You can see the gray area from 2001 to 2010. The current resources that come from bilateral contracts, from the Western Area Power Administration contracts, come from power plants that we are partners with, with the Northern California Power Agency, as well as some generation within the City.

In 2005 you can see that drop in resources, and Pico will fill that drop. We are

currently -- current energy use is below the load forecast, and we're at about 2500 gigawatt hours, which is about, if you take that green box line straight across, that's about where our load is right now. So the Pico Power Plant will fill at least existing load. We have a couple bilateral contracts, but we will be able to meet whatever future load growth with contracts as well as Pico.

With that I'd like to turn the rest over to Les Ward, and he can get into the details of the project.

Thank you very much.

PRESIDING MEMBER GEESMAN: Thank you.

HEARING OFFICER FAY: Thank you.

MR. WARD: Good evening. Before I start I'd like to take a moment to just introduce, if I may, briefly, the people who help me daily on the project. And god help me, I hope I don't forget anyone, so I'll try real hard.

Tony Baldere, and let me assure you Tony does a lot more for the project than run the presentations. He is the man that makes it all work.

John Rovkema is the project sponsor for the Silicon Valley Power and City of Santa Clara.

And I might ask you to stand up. Mike Fox, I'm going by -- is an engineer on the -- power project engineer, dealing with the procurement of the gas turbines, gas pipeline, the recycled water.

Don McArthur is our air consultant. And George Claypoole is the project engineer, the design project engineer. And Jim Carlson is the development engineer. Patty Conrad is the procurement coordinator on the equipment. And Sunny Andrews is our office manager.

And I'm proud of these people, and I'm proud of the job they've done. And, of course, you've already met my associates over here. Thank you for indulging that.

Take a few minutes and tell you about the project. The technology is gas-fired, combined cycle. We have a specific slide on that. Best available control technology, the BACT phrase you've heard referenced, we use for the emissions control.

It's a 123 megawatt baseload. The plan for the power plant is that it will run 24 hours, seven days a week, and be baseloaded. It's 147 peak load duct firing, which is a phrase to augment, duct firing.

As you saw today, it is located in an industrial area. It's being financed through the City and the utility with utility revenue bonds. And any specific questions to that I'll direct to Jim Pope's attention.

Something that you fine staff people and Commissioners can help me with, it's going to start construction in June of 2003, and hopefully you do that and I'll take care of getting it ready for December of 2004.

As I said, it's a simple graphic of a combined cycle, is the primary fuel -- again, someone asked me at the site what type of engines. It's a LM -- GE, General Electric LM6000. Very comparable to the 747 jet engine. The primary fuel being natural gas; and the ambient air is fired and turns the turbine for the gas -- for the electric generator, which distributes direct to the internal Silicon Valley Power grid.

The combined cycle terminology comes from the capture of that exhaust from that process and flows to your right, the exhaust into the heat recovery steam generator, which is -- I'm sure you're familiar with this, is for the general public, it's a very large heat exchanger where we

are using the heat, the exhaust to heat the water flowing through the heat exchanger tubing, to create and generate steam. The high pressure steam, through the red, comes out to the right of the generator, steam generator, comes down into the steam turbine. And, of course, that steam is used to drive the turbine, which again drives the electric generator, which again produces electricity to the Silicon Valley grid.

The size of the steam turbine is approximately 47 megawatts. The size of each combustion turbine is approximately 50 megawatts, 100 combined.

During normal operation we would be firing both of the combustion turbines, and only firing 25 megawatts of the capacity of the steam turbine.

We go into a situation where the market warrants it, or the -- I should not say the market, the demand would warrant it, we would go into the duct firing, which we would use the full capacity of the steam turbine. Which, again, is about 47 megawatts or so.

Back to the heat recovery steam generator. Inside the steam generator where the

exhaust is flowing through there is a catalyst often referred to as the SCR. That catalyst is used to achieve an 80 percent, or is it 90, Jim? A 90 percent reduction in the emissions. And, of course, to the right of the stack then -- to the right of the generator is the stack.

On the lower right-hand corner, once the -- of course, we go through the steam turbine, the steam that flows through the turbine is condensed and the condensed condensate, the warm water after the steam has condensed, goes back into the process that is the heat recovery steam generator cycle.

And to achieve that condenser process there's a closed system where cold water is flowing, of course, and the steam hits the -- the cold water's inside the tubes, and the steam is on the outside of the tubes. And that's what creates the condensation of the steam.

Then, of course, the heat absorption, the water now becomes hot. And it flows over into a cooling tower. I'm sure a lot of you have seen the cooling towers in industrial facilities. And you might have noted when the water there is condensed and into atmosphere, you sometimes often

have a plume.

One of the unique technologies of our facility is that we have what is called plume abatement. So we would have a plume on this facility less than 3 or 4 percent of the operating time throughout the year. And typically that's 3:00 or 4:00 in the morning, and only when you would have the right atmospheric conditions.

In general, that's the process.

PRESIDING MEMBER GEESMAN: Les, can I interrupt you?

MR. WARD: Yes, sir.

PRESIDING MEMBER GEESMAN: And ask, in terms of seasonality, is there any particular time of year when those atmospheric conditions are more likely to happen than other times of year?

MR. WARD: Yes. I would say 35 degrees Fahrenheit, if my memory serves me right, is critical. And so it's more, it's considerably in the Santa Clara winter conditions.

Some of the specific of the project that you saw, it's a relatively small site, 2.1 acres, which is owned by the City of Santa Clara. And it's my understanding that the City purchased that off of PG&E 30, 40 years ago at least.

Even though I will often refer to it as a brownfield site, that's only because there's an existing receiving station and substation on the site. But the property, itself, where we are going to build the power plant has never had any other facilities built on that area.

It is being constructed in an area that is zoned for industrial use. One of the attractive features naturally is that it's directly adjacent to the Kifer receiving station.

And whenever you go to build a power plant you typically look to see the accessibility to transmission lines. And for those that had the benefit of visiting the site, you saw that there was adequate transmission lines. There's the 115 kV station.

And as I pointed out on the site tour, the Pico Way, we have natural gas which will -- we'll tap into the Pacific Gas and Electric main approximately by Gianera station two miles north of the power plant. And will run a 12-inch gas line down into the compressor station, which was pointed out, just southeast of the plant. And back into the -- back up into the gas combustion turbines.

We have, in Pico Way, that was where I started to make the point, in Pico Way we have the main, I think it's a 48- or a 54-inch main coming through, under Pico Way, for the South Bay water recycle and City of Santa Clara recycled water system.

Again, one of the attractive features of this power plant is that we will use 100 percent recycled water. And it's a recycled water system with extremely high reliability. I think the efforts, we checked, that verification of that was over the last two or three years they've only had one or two outages of any duration greater than 24 hours.

There is an existing sewer under Pico Way. There is some limited capacity. Therefore, we will run a new sewer. I want to say 18 inches, about 18 inches in diameter; 2025 feet -- about 800 feet down to central Parkway. And we will tap into a sewer main at that location.

So, relatively simple infrastructure. And the toughest thing for this power plant is the constructability on 2.1 acres.

This is hard to see.

(Laughter.)

MR. WARD: But we'll struggle through this. As I said earlier, north is where you'll see the natural gas pipeline, that direction is north and that is the general location of our northern receiving station and the Gianera plant where the PG&E gas main comes through.

We'll tap in there and run our new gasline down into the compressor station which is in the southeast. And it will just jog back up to the northwest and to the plant site.

It gives you some indication of where the -- well, I can't read that very well -- the sewer line we're tapping into is Central Parkway, it's located there.

But, again, just gives you a general perspective of the magnitude of the infrastructures.

Next. This is what it looks like currently. It's what you saw today. As you can see, it's an industrial area, and the buildings that do surround the immediate property are in general what they call server buildings in this area, a very low population, if any at all.

Looking, we are now looking north, you look straight on into the project, we're looking

north. The first is the 115 kV receiving station. And south of that is, of course, that's labeled, Kifer. South of the Kifer is the 60 kV substation, existing.

East of the trees that Cecilia was asking about today, east of those trees will be where the -- on the land with the little knob will be where the administration and control room is.

To the extreme west of the substation where it says Pico site, will be our new switchyard. And it's a little hard to point out, but if you're looking to the west then you've located the Kifer, you would picture two stacks 95 feet high, right sort of there.

And this is what it's going to look like. And I think it's a significant improvement.

(Laughter.)

MR. WARD: And as I was trying to give you a general -- the cooling tower on the northeast corner that I talked about, plume abatement. The administration building, the stacks, the steam turbine is right southeast of the cooling tower; you can hardly see it.

But, as you can see the -- and the switchyard to the extreme left. We don't have a

lot of room for mistakes. And nothing can change. That's the great thing about this project, it is where it is.

Some of the issues that, as the Commissioners referred to, we'll be dealing with over the next six months through the AFC process, and we talked through these issues today, earlier in our workshop. Air quality, best available control technology. And as always, there's questions as to the fact have we availed ourselves to the best technology. And we feel that we can substantiate that from a position of strength.

We have -- one of the requirements are that basically you have zero emissions. By anything that you do emit into atmosphere is offset by the purchase of equivalent emissions or often a greater ratio. We have committed to that, and have successfully found suitable credits to purchase. And we've already started that process.

And one of the questions was on the PM10 mitigation. And, again, through our application, we have committed to mitigation of PM10.

Some of the biology issues that we talked about earlier were the potential impact on the checkerspot Bay butterfly -- had to say that,

wow, that's a tongue-twister. Again, we have 100 percent committed to full mitigation of that impact.

And the way we would propose to do that is through purchasing suitable land and also management of that land in perpetuity.

The water; we're always proud to proclaim that we will be 100 percent reclaimed water, the primary source. And, of course, you would always ask, well, what happens if there is an extreme case, an outage. We will have potable water as a backup. And we will accomplish that through drilling a new industrial well -- the City water will actually provide that well to the project. And they will drill the well.

I think that's about it. And I guess now I turn it over back to Gary and John, am I correct?

HEARING OFFICER FAY: Right.

MR. WARD: Okay.

HEARING OFFICER FAY: Thanks very much.

MR. WARD: Thank you.

HEARING OFFICER FAY: Now we'd like to ask the staff to summarize the process that they're going to go through in analyzing the

project.

MR. TRASK: Once again, I'm Matt Trask, Project Manager for the Siting Division of the California Energy Commission for this project, the Pico Power project.

Get my presentation up here. I did have copies of my presentation out on the table there that you can get. I do have a few extra copies here if you'd like one.

Next slide, please. The Energy Commission was established in the 1970s under the Warren Alquist Act. And that was codified in the Public Resources Code. And the purpose, as stated in there, is to insure a reliable supply of electric energy, maintained consistent with the need for such energy. In other words, that the supply equals demand at least. And that we do so keeping an eye on the protection of the public health and safety. And for promotion of the general welfare, and for environmental quality protection.

I'll be explaining these boxes individually. Mr. Fay and Commissioner Geesman already touched briefly on the organization of the Commission.

We have five members who are the decision-makers. They will be the ultimate authority whether to issue this license.

Two of the Commissioners sit on the Siting Committee for this particular project, and that is Commissioner Geesman and Commissioner Rosenfeld. And then Hearing Officer Gary Fay more or less covers the later part of the process where we get into hearings, somewhat of a court-like atmosphere where we have witnesses and some people might say grilling, but questions and answers.

Then various people who participate, or parties that participate in the proceeding. We have, of course, the City of Santa Clara, Silicon Valley Power is the applicant. We work very closely with government agencies at every level, local, state and federal. I'll go into that a little bit later.

Then we have the Energy Commission Staff, by the Warren Alquist Act, it is a very independent party, independent from the Committee and from the Commission. And we will make our recommendation to the Committee whether to approve the project or not. And then the Committee would

make their decision.

We also have intervenors who can participate in the project. These are people who formally let us know that they want to participate in our proceedings. They're often people like sometimes local residents, sometimes the unions get involved, people like that.

And then, of course, the fifth and most important is the public, the general public. Our whole process really is to give information both to the Committee and to the general public so they can be aware of the potential impacts of any given project.

Next slide, please. The Energy Commission has authority on approving thermal power plants. That's anything that uses heat as its primary source. That primarily is natural gas, some geothermal and nuclear. And it's 50 megawatts or greater. If it's 49.9 or less it goes through the local jurisdiction.

Whenever we analyze a project we look at the project as a whole. So it would include any transmission lines, water pipelines, natural gas pipelines, access roads, disposal facilities, anything that was constructed as a direct result

of the power plant.

We do have some limits in the jurisdiction. For instance, with the transmission lines, our jurisdiction is up to the first point of interconnect. After that it becomes another agency.

One of the main things we do, as I stated, was to coordinate our process with federal, state and local agencies. Very early on we'll identify the agencies that we think should know about this project. We'll send them letters. We'll ask them for comments. And then when we get the comments from them, at least two steps. And, again, I'll go through that a little bit later.

The Energy Commission is the lead state agency under the California Environmental Quality Act, also called CEQA. Our process, this staff assessment process, is an equivalent CEQA process. We do everything that you would do in an environmental impact report plus considerably more, more of the technical side of it.

We look at how the project will fit into the transmission system; whether it's reliable, those kind of things.

And, of course, all along we do

encourage public involvement at every level, every workshop, hearing, you name it, we very much encourage the public to attend and be involved.

With local and state and federal coordination the Energy Commission's process does substitute for all other processes with a couple of minor exceptions, I shouldn't say minor. There's a couple of exceptions when it comes to the federal agencies. But we do very much want to keep agencies involved. We want to find out from them if they were to be the agency that approved or disapproved the project, we'd want to know what the conditions are under which they would approve or disapprove it. That kind of thing.

Some of the agencies we'll be working with is obviously the applicant, Silicon Valley Power; but also the various other departments of the City of Santa Clara, like the planning departments, public works departments.

Same thing with Santa Clara County. Their sanitation, fire, planning and public works departments.

A couple of regional agencies we deal with are the Bay Area Air Quality Management District, which will issue the air quality permit

for this project. We also deal with the Regional Water Quality Control Board, the Bay Area Regional Water Quality Control Board.

Some state agencies, of course, the Department of Fish and Game, the Air Resources Board, I already mentioned the Regional Board.

And federal, we work very closely with the Environmental Protection Agency which gives us a lot of input on the air quality primarily, but also public health and a few other areas.

The Army Corps of Engineers and Fish and Wildlife Service we deal with quite a bit on endangered species issues. But, in general, wildlife issues.

Next slide, please. Mentioned the CEQA equivalent process, and I think I might have already covered this fairly well, but we look at everything that you would look at under the Environmental Quality Act. We'll have a list of those areas a little bit later.

So, its environmental impacts, things that could happen to the bugs and bunnies out there. But also we very much emphasize public health and safety affects. We do health risk assessments, that kind of thing, to make sure that

whatever kind of chemicals are handled at the project plant, the emissions coming out of the stack, those kind of things, are not going to create a health problem with the general population.

And a big part of our analysis is that we make sure that the project is in compliance with the various laws and regulations that cover development of power plants.

Mentioned briefly that we also do an engineering analysis to make sure that the transmission system can handle the power coming out of the project. Make sure that the power plant, itself, meets reliability requirements and efficiency requirements. Obviously we don't want to be building things that are inefficient. We need to make best use of our resources as we can.

We hold several public workshops and hearings. We had our first one earlier today. We'll have another workshop probably after the applicant responds to some of our questions we've asked them. We call those data requests and data responses.

We'll have another workshop after we release our staff assessment, where we'll work

with the applicant on the various conditions of compliance, the mitigation, as we call it, to maybe work out a few bugs. And then we'll generally put out a final document.

After which we'll have hearings where Mr. Fay will be presiding and that is that more court-like proceeding that I mentioned.

For the six-month expedited process we do a staff assessment and then an addendum to the staff assessment, as opposed to a preliminary staff assessment and a final staff assessment -- that's very difficult to say -- that we do in the longer 12-month process.

The addendum generally will only update areas that would change between the first document and the staff assessment, so it's fairly small document.

After we complete that process, staff completes that process, it's essentially our part of it is done, although we do participate through the rest of it.

We will have hearings and then the Committee will issue the Presiding Member's Proposed Decision. We call it the PMPD. And it will be circulated for comment. I believe there

will be at least one hearing on the PMPD. And finally the Commission decision. And we'll have a schedule on that a little bit later.

These are the areas that we cover. I think there's 21 of them, although we've combined a couple of them here.

As you can see, on the left are the areas that you would generally cover in an environmental impact report on just about any other kind of project that comes before a government body. And on the right are the various engineering assessments that we do.

It's generally sort of a three-step process for a licensing process. I've already been through the first one for this project. That's called data adequacy.

Basically the applicant will give us their AFC. We will distribute it to our staff members. And make the assessment as to whether we have sufficient information to begin our analysis.

And if we think we do, then we declare it data adequate. And that happened on November 20th.

Once that has happened then we go on to the next step, which is to get all the information

we need to complete our analysis. We do that through several ways. We gather information through data requests. We've already issued our first set of data requests to the applicant. And this afternoon, was the topic of the workshop were the various questions that we asked them. They will respond with data responses in about 10, 20 days after we ask them.

Then we'll probably have another workshop after that. And then, of course, we will produce our staff -- gather all this information together in an analysis and produce that in a document called the staff assessment.

Once we complete our staff assessment and addendum, then the project goes into the more formal adjudicatory process. We have evidentiary hearings. And then like I said, the PMPD, comments and perhaps a revised PMPD. And then finally the full Commission would vote whether to approve or disapprove the project.

A couple key components and conclusions. Two main things that we do in our analysis. One is to do what we call compliance with LORS, laws, ordinances, regulations and standards. These are every kind of law, city ordinance, any regulation;

standards are often established by professional groups like architecture groups, things like that. That would be more on the engineering side.

So we look very closely and make the determination as to whether we believe that the project conforms with all the applicable LORS.

And then, of course, we also look at the individual impacts, environmental and public health and safety. We identify them, the potential impacts. We evaluate whether or not there's an alternative, some other way to develop the project, some other place to put it, some other technology to use, that kind of thing that would get rid of these impacts.

We identify mitigation measures for any impact that we come across. That can be a wide range of things depending on the impact.

And then our document will contain the conditions of certification. These are the recommendations that we make to the Committee as to the conditions that the applicant should follow and adhere to in order to insure that there will be no impacts throughout the life of the project.

As I said before, we have a very open public process with our workshops and hearings.

We will be putting notices out for each hearing and/or workshop at least ten days in advance, usually more; around 15 days.

I will encourage anybody who wants to participate to subscribe to our website. Later on I'll have the site address for that. If you go to that website and put in your email address you will automatically get the notice of any of these workshops and hearings. And actually anything that changes on the website at all, you'll get a notice in an email.

We maintain mailing lists that are given to us by the applicant, and then we verify them, and add to them, getting information from people who attend these hearings and workshops. Also from agencies. We find out who owns property around the project site, and along all the linears. And we notify those property owners.

And as Roberta pointed out, we do flyers and newspaper ads and so forth. And we also contact schools in the area.

One of the things that we do in our analysis is we look to see if there's any possibility for what we call disproportionate impacts. And basically that is an impact that

hits some group of people differently than another group of people. It's often referred to as an environmental justice evaluation. We look at it in 11 different areas of those 21 that we saw a little bit earlier.

Primarily the two big ones are air quality and public health. We first see if there is any potential for an unmitigated impact. That's an impact that we just -- we feel that the project would create but there's no means to reduce the impact to a level of less than significant.

If and when we find an impact that can't be mitigated, then and only then do we find out if it is disproportionate. And what we do there is we examine census maps and so forth to find out exactly where people live. We can see from the census information of what race they might be, or what income level. And then we can determine if there is any disproportionate impact. But, generally if there's no impact then you don't have a disproportionate impact.

Roberta also mentioned this a little bit earlier, where all you can obtain the document or view the document. We do have a couple copies on

file at the Santa Clara Library. We have them in various libraries around the state, including at the Energy Commission library in Sacramento. There's a state library in San Francisco, Los Angeles, a few other places.

But the entire application for certification is also available electronically on the website. There's the address. I won't even try to spell it out for you.

And you can also view virtually any document associated with this project at the dockets unit, which is at the Energy Commission in Sacramento.

Some contacts. I am the Project Manager right now, but I'm in an interim status. I happen to be a consultant and the work load is going down enough to where the Energy Commission won't need as many consultants. So Bob Eller, a Staff Project Manager, will be taking over the project in January sometime. His phone number and email address are up there, as well as Mr. Fay's phone number, and Roberta's contact information. I'll leave that up for a second for anybody to contact. And like I said, I do have copies of this presentation out front if you want to grab a copy.

Next slide. One of the first things that we've put out after we determined that the application is data adequate is the issues identification report. This is to inform people of the potential major issues, things that might slow the process down. Things that will require close attention.

And so that we can get early attention to it and hopefully work things out before we get to hearings.

Some of the criteria for things that would be identified in the issues identification report are ones that would be difficult o mitigate. Anything that's not in compliance with the applicable laws, ordinances, regulations and standards. Anything that's found to be contentious with the members of the public, people living nearby. And, of course, anything that would affect the schedule.

For this project we have identified only two areas that had anything that met that criteria. The first one is in the air quality area. Mr. Ward mentioned earlier the best available control technology standards.

Right now many projects are being

subjected to an even more strict BACT level. This has to do with development of technology. Primarily we're talking about in the control of emissions of the project. And then the performance standards that results out of that process.

It's in a state of flux right now, ratcheting down to a lower level. And largely that's being pushed by Environmental Protection Agency. So that is one area where we very much keep them involved so we can stay on schedule with that one.

The other one is a rather technical area called nitrogen deposition on serpentine soils. Basically down south of here in the hills down near Gilroy and that area you'll find several areas where the soil is classified as serpentine.

This is generally considered a very low quality soil, not much grows in it. It would be the last place you'd want to put a farm. But, there are plants that grow on it that don't grow anywhere else. And there are species that depend on those plants.

So anytime you do something that affects those kind of soils you might be affecting an

endangered species. In this case it is the Bay Area checkerspot butterfly that depends on some of the plants that grow only on serpentine soils.

The problem with serpentine soils is that anytime nitrogen falls out onto it, you're actually enrichening those soils, turning it into a better soil and other things grow on it. And then the checkerspot butterfly would not have as much food to eat. And so it could harm the species.

So we are doing an analysis of how much nitrogen is coming out of the power plant, or would come out of the power plant. And how much would reach these critical soil units down by Gilroy. And establishing the mitigation for that impact.

Finally, I'll go into our staff's proposed schedule. See, we're already up here to December 16th on the data -- workshop and hearing and site visit. You can follow along there. On January 21st is where we will want our first level of comments and determinations from the other agencies that are involved, or would be involved if it weren't for the Energy Commission.

Followed by, on January 21st, we hope --

same day -- we hope to get the preliminary determination of compliance -- I'm not sure where that "s" came from; that's not supposed to be there -- it's the Bay Area Air Quality Management District. Somehow that "s" sneaked in there. Yeah, it's South Bay Area. They're splitting up now, yeah.

That is essentially the air quality permit that will set things like the BACT, the best available control technology level. For instance, it has been previously determined that 2.5 parts per million of oxides of nitrogen was an acceptable emissions rate from a power plant. It seems that EPA is pushing for many types of power plants to go down to 2.0. And that will be perhaps the main issue in the PDOC.

Shortly after that on February 3rd, staff intends to issue their document, their EIR equivalent; the staff assessment will follow about ten days later with a workshop on that staff assessment.

About two weeks after that we hope to get the FDOC from the Air District, the final determination of compliance, as well as any other input that we need from various agencies.

Then we will, if needed, file a staff assessment addendum March 20th at the latest. And that will be followed fairly quickly by the evidentiary hearings; on into the proposed decision; comments on the proposed decision. And then the Committee decision on May 14th.

This, of course, is subject to change. And things that might slow it down, as we identified in the identification report, would be the Air District and their processing of the PDOC and the FDOC. And primarily EPA's input in there may slow their process down, which may slow us down. We don't anticipate that at all at this moment, but it is an area that we're a little bit concerned with.

And that's it for staff.

HEARING OFFICER FAY: Thanks, Matt. We don't have any intervenors at least yet in the case. But I will invite the City, if they have any further comments, as opposed to the project, itself? All right, nothing further from the City.

How about any of the agencies here? Would you like to explain how you carry out your role or how you're going to work with the Commission Staff and what your concern is about

this project?

MS. BROWN: My name's Cecilia Brown and I'm a Biologist with the U.S. Fish and Wildlife Service. And what my concern primarily is is again the endangered species that will be affected by this project by the nitrogen emissions that will be added to the ambient nitrogen levels currently that exist in this part of the South Bay.

And one thing that I do want to stress is that the Bay checkerspot butterfly is not the only listed species that will be affected by the project. There are four endangered plants that are endemic to serpentine soils.

They are the Santa Clara Valley dudleya; the Metcalf Canyon jewelflower; the Coyote ceanothus; and the Tiburon paintbrush. So I do want to stress that the compensation that has been offered for mitigating the impacts to the Bay checkerspot butterfly is not the only compensation that we would be looking at.

The emission reduction credits or ERCs are also very important to the Fish and Wildlife Service in terms of insuring that adequate conservation measures are implemented as a result

of this project that will not just prevent harm to the -- or mitigate harm to the Bay checkerspot butterfly, but also to mitigate the harm to those four plants.

Those four plants are found at different areas of serpentine habitat, mostly on Coyote Ridge, but some of the plants, namely the Tiburon paintbrush and the Coyote ceanothus, have only a couple of very small populations left. So, finding a single parcel of land to conserve would likely be extremely difficult.

Actually, as far as I know there's no single parcel of land that contains all four of those endangered plants.

So we wouldn't necessarily be looking for land preservation that included all of those species, land preservation that is serpentine in nature, and that is part of the serpentine ecosystem would suffice. But those emission reduction credits, that would show that you were also contributing to a reduction in the overall ambient levels of nitrogen, are important to the Fish and Wildlife Service.

The way that we're working with the Energy Commission is that I've been in close

contact with Stuart Itoga, the Staff Biologist, and insuring that the air quality modeling that's being presented for this project is an accurate representation, or as accurate as possible representation of what the potential impacts to serpentine habitats are.

Questions? Okay.

HEARING OFFICER FAY: Any other agencies here that will be involved in the review? Okay, I see no indication.

Then let me ask if there's any members of the public who have come, who wish to make a comment about the project, or have any questions? Why don't you come up and give us your name and give us your comments.

MR. FREITAG: My name is Clark Freitag. I represent two properties directly across the street. One is AllSave SelfStorage at 3033 Lafayette Street. Another is an industrial building at 3011 Lafayette Street.

I had expressed some concerns about the traffic along Lafayette, and the ability to make turns onto Duane from Lafayette and from Duane -- from Duane onto Lafayette and from Lafayette onto Duane.

It's my understanding that a traffic study has been done and the additional level of service on traffic was minimal. However, you know, my concern was amplified this last week. There was a serious accident directly in front of the property. Our manager had to call 911. A Honda Civic wound up on the median of, center divider of Lafayette. There was some injuries.

And my concern is, again, the level of traffic, the speed of traffic, and the ability to make turns from Duane to Lafayette and Lafayette to Duane.

I have asked to see that be signalized with a full intersection to slow traffic down, and to, you know, be better able to handle the increased traffic that is going to come with this project, although it may only be a small incremental increase.

My feedback has been that this would not be considered as part of this project, but it would be part of a City of Santa Clara independent traffic study and could take three or four years if this traffic study shows that it's warranted. And then it may not even come in three or four years.

In summary, I don't want to see any more 911 calls. We've had one fatality. And we've had a serious injury this last week. And I'd like to see something be done about it prior to this development coming online.

Thank you.

HEARING OFFICER FAY: Thank you.

PRESIDING MEMBER GEESMAN: If I could ask a question?

HEARING OFFICER FAY: Sure.

PRESIDING MEMBER GEESMAN: Was your concern about traffic principally during the construction period, or are you including the operation period of the plant after construction is --

MR. FREITAG: Yeah, ongoing.

PRESIDING MEMBER GEESMAN: Okay. Thank you.

MR. FREITAG: Sure.

HEARING OFFICER FAY: And just using your concern as an example, first of all the applicant has produced an AFC, application that they told you is available in the library. You could look in the traffic section of that to see how the applicant characterizes the potential

impacts, both during construction and during operation.

Then when the staff assessment comes out you can review that, which will be the staff's take on the same topic, a little different point of view, to see if you think that's been an adequate review.

And in the meantime, before the staff assessment, there will be workshops. And when the topic of transportation is going to come up you may want to come to the workshop and ask some questions or offer some suggestions, and have some input there.

So, just using your subject as an example, there are a lot of times when you can have input. If you don't like what the staff has done then you can come and make comments to the Committee when we hear the topic. And if you don't like what the Committee does, you can submit comments to the full Commission.

So there's an awful lot of opportunities to have input as it sort of moves through the process.

MR. FREITAG: Okay. Is there a contact person that can give me these various agencies and

committees, a kind of a one-stop source who can help direct me?

HEARING OFFICER FAY: Yeah, Ms. Mendonca would be the best person to contact.

MR. FREITAG: Okay.

HEARING OFFICER FAY: And she can put you in touch with all the various agencies and the people at the Commission who will be working on it.

MR. FREITAG: She was kind enough to give me her card when I came in, so I'll follow up. And thanks for listening.

HEARING OFFICER FAY: Great. That's what she's there for. Thank you.

Anybody else from the public who would like to make a comment? Last call. I see no indication.

Okay, our agenda was to next go to the staff's issue identification report and scheduling, but Mr. Trask has covered that in his initial presentation. And as much as we enjoyed it, we don't need to hear it again.

(Laughter.)

HEARING OFFICER FAY: I will mention that the applicant filed a letter accepting the

staff's proposed schedule and agreeing that that was appropriate. So we have no disagreement on the schedule at this time.

The Committee will be putting out an order setting the schedule. But I have to tell you right now there's not a lot, a great range of views on that. So I think you can, for the time being, rely on the staff's proposed schedule. Put that on your calendar so you're sure not to miss anything.

The schedule is always subject to change by the Committee, and the changes tend to come about because of little wrinkles in the case. If they discover yet more endangered species or ancient cultures along the gas pipeline, or whatever, there's all kinds of environmental impacts that may not be fully realized at this time. And that's what the process is for, is to discover as much of that as possible before the final decision on a project.

Are there any last questions then about our process before we adjourn? Comments from the parties? Mr. Galati?

MR. GALATI: I would just like to take this opportunity to place something on the record.

On behalf of the Pico project team, Mr. Matt Trask has been a wonderful addition to your staff. We understand that today might be the last time he speaks in front of a microphone on behalf of the Energy Commission, and we just wanted to let him know on a personal note and on other projects, as well, that he's been a joy to work with and we wish him the best.

HEARING OFFICER FAY: We'd love to be able to keep Mr. Trask. We've seem to come up $20- or $30-billion short, so --

(Laughter.)

HEARING OFFICER FAY: -- it's not possible at this time.

MR. TRASK: I'll settle for half of that.

(Laughter.)

HEARING OFFICER FAY: That just about takes care of his salary.

MS. MENDONCA: And I'm not here to disagree one bit at all, but rather to remind members of the public that if they want official notice they can sign up on the sign-up sheet outside. Give us their address or their email address, and either way we will see that they get

notice of our next meetings.

Thank you.

HEARING OFFICER FAY: Okay. All right, last chance for any comments.

All right, thank you all for coming and we are adjourned.

(Whereupon, at 6:16 p.m., the hearing was adjourned.)

--o0o--

1

CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Hearing; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of January, 2003.